

A Case for Intermediate Sanctions

Prepared for the Utah Commission on
Criminal and Juvenile Justice

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Executive Summary

Current trends in criminal justice over the past few decades demonstrate the need for some criminal sanctions between the extremes of incarceration and simple probation. A new type of sentencing has emerged to fill that gap. Appropriately labeled, intermediate sanctions give justice and corrections professionals new ways to deal with trends in crime.¹

Traditionally, increases in crime have been met with increases in incarceration. This has developed a counterproductive paradigm that often leads to overcrowded prisons and jails, early release of potentially dangerous offenders, and corrections budgets that eat away state funds. In an effort to be “tough on crime,” many states are worsening the incarceration paradigm.

Simple probation is not the answer. Because caseloads of 150-200 offenders per probation officer is now common (Petersilia & Turner, 1993a), public safety can be seriously jeopardized by sentencing to probation. Unfortunately, often times probation serves as a release valve in sentencing for overcrowded prisons. This makes sentencing very uncertain. Because of this uncertainty, potential offenders cannot be sure how they will be punished if caught committing crime. Any experienced parent knows that children learn discipline by counting on consequences for misbehavior. Likewise, in corrections, would be offenders need to know that whenever they commit a crime, a just punishment will follow. Blurring the connection between crime and punishment undermines rehabilitation, weakens the preventative power of the criminal justice system, and endangers the public. Intermediate sanctions allow lawmakers to make this connection clear. They offer a more effective way to be “tough on crime.”

Intermediate sanctions are an effective answer. They provide a way to engineer individual sentences for each offender, or class of offenders. They can be effectively used as alternatives to prison, and alternatives to probation. As alternatives to prison, intermediate sanctions allow for greater rehabilitation through community contact, cost less, and often have less destructive side effects for offenders. As alternatives to probation, although they frequently cost more, they offer better insurance of

¹ The following report is an evaluation of intermediate sanctions and specific possibilities for the state of Utah. It should be noted that the majority of the information presented in this report represents an evaluation of the literature available about intermediate sanctions. No empirical study was performed in order to produce the information presented in the paper.

public safety, and in many cases minimize recidivism. Indeed, intermediate sanctions allow the punishment to suit the crime.

Examples of intermediate sanctions² include:

- Monetary Penalties
- Intensive Supervision Programs
- House Arrest
- Electronic Monitoring
- Day Reporting

Caution should be used when implementing intermediate sanctions, and the key to constructing effective programs is targeting populations. The wealth of evaluations on intermediate sanctions shows that effectiveness is contingent on establishing goals for the proposed program, and targeting a specific population to achieve those goals. For example, intensive supervision programs (ISP) can be a more cost-effective sanction, but only if the target population is currently being sentenced to prison, and not simple probation. Proper pairing of goals and target populations can better ensure the effectiveness of intermediate sanctions. Specifically, possible target populations in Utah include sex offenders, drug offenders, and juveniles.

Application of these and other intermediate sanctions is a promising possibility for Utah. Specifically, they would aid in the construction of a corrections continuum. On one end of the continuum would be prison, and on the other end would be simple probation. In between, would be varying degrees of supervision and consequence built using intermediate sanctions. Offenders could work their way further toward incarceration or freedom based not only on their offense, and history, but also based on technical violations built into the intermediate sanction system. Such a continuum would maximize rehabilitation, punitiveness, and public safety.

² The examples included in this report are not comprehensive in terms of the different types of examples, nor are the evaluations of these examples. The purpose of the examples and the evaluations thereof in the main body of the report are primarily to introduce the reader to different types of intermediate sanctions. Much more extensive evaluation is recommended prior to implementation of any of the included examples.

A Case for Intermediate Sanctions

Consider an analogy: A man sets out to work early on a cold and snowy morning. As he slides along making his way through his neighborhood he encounters a patch of solid ice. Slipping off the edge of the road, he ends up with the back of his car in a snow bank. His car is equipped with four-wheel drive that can easily be engaged, but the man chooses not to use it. Instead, he erroneously thinks that his car simply doesn't have enough power to free itself. Accordingly he pumps the accelerator spinning the wheels to no avail. Even worse, the more he spins the wheels, the deeper his car sinks. The answer to his dilemma is obvious. Instead of applying more power to the existing wheels (which are stuck in the snow), he should engage all four wheels.

The state of corrections in the United States and Utah is in a similar bind. Like the man stuck in the snow, in an effort to be "tough on crime" more and more money is given each year to increasing the number of prison beds. Despite the decreasing rate of violent crime (compared to peak levels in late 1980s and early 1990s) incarceration rates in the United States continue to increase. According to the Bureau of Justice Statistics (BJS), the number of prisoners in state and federal facilities increased 5% in 1996, while the rate of reported violent crime dropped by 8% nationwide (BJS 1997, as quoted in Greenwood 1998). In essence, the nations corrections systems are spinning their wheels. What is needed, are some wheels on dry ground --some alternatives to prison that offers the same punitive consequence without the costly, often criminogenic, and sometimes harmful side effects of prison. Intermediate sanctions offer an effective alternative: four wheel drive for corrections programs.

The Problem of Prisons

In the celebrated classic A Christmas Carol by Charles Dickens, we see the beginnings of the problem of prisons. When asked for a charitable contribution to help the poor, Dickens' cold-hearted Scrooge returns, "Are there no prisons? ...union workhouses...are they still in operation? ...the treadmill and the poor law are in full vigor then?" Although prisons and sentencing today are nothing like the cruelty of Old England, many still answer questions regarding crime like Scrooge answered questions of helping the poor- "Are there no prisons?"

Prisons seem like a fix-all solution to a wide variety of problems. Corrections professionals know they are not. In theory, prisons protect the public, punish the offenders, and teach them how to function as normal and productive individuals. If this were reality, then sentencing to prison would be a logical choice for almost all offenders. Unfortunately, this is more illusion than reality. As a result of sentencing based on illusion, prisons are overcrowded, ineffective, and expensive. As long as the illusory theory of maximum rehabilitation through incarceration drives sentencing, the problem of prisons will worsen.

Overcrowding

Overcrowding undermines rehabilitation, and harms inmates psychologically and physically. Many studies suggest a correlation between overcrowding and misconduct within prison. According to research detailed below, it seems clear that overcrowding injures the criminal justice system; when the system is injured, the public loses as well. Overcrowding impacts public safety by releasing potentially dangerous criminals on the basis of space rather than risk of recidivism.

Increases in population size, or spatial density are significantly correlated to inmate behavior problems. Examining the negative effects of overcrowding is a difficult task, but it yields significant results. According to Paulus (1988), "...the relationship between crowding and violence is not a simple one, [but] the degree of crowding and the age range of the inmate population can be

determining factors.” Within an extensive review of various studies done by Paulus¹(1988), spatial density was positively correlated to violence, rate of disciplinary infractions, and recidivism. One study showed that prison population level was significantly correlated with disciplinary infraction rates among female inmates (Ruback and Carr, 1984 as cited in Paulus, 1988, p. 17). Bruehl, Horvat, and George (1979) (as cited in Paulus, 1988, p. 17) related increase in population within a chemical abuse subunit to increases in the percentages of escapes, disciplinary reports, and comments to administrative detention. In short, overcrowding in prisons is closely related to inmate misconduct. But bad behavior isn’t the only effect of inmate crowding.

Physiologically, and psychologically, crowding affects inmates. Various studies correlate crowding with illness complaints, headaches, and blood pressure, as well as suicides, deaths from natural causes, and psychiatric commitments. “The data form a coherent picture from many different sources, and strongly support the conclusion that crowding does have important effects on physical and psychological health and behavior.” (Paulus 1988, p. 53)

From any angle, the answer to improving effects of prison for inmates is to reduce crowding. Intermediate sanctions offer a sentencing answer to crime without increasing prison populations.

But what about public safety? Even if prisons aren’t rehabilitating, it may be worth the expense to keep dangerous criminals off the streets. The sad truth is that the more prisoners are sentenced to prison, the more danger they pose to public safety.

The impact of institutional crowding is not only destructive to the lives of inmates and the administration of the facilities, but may endanger public safety through the early release of potentially dangerous offenders. (Koehler & Linder, 1992)

As prisons reach 125%, 150%, or 175% capacity, the domino effect ensues. More prisoners are released early, and less prisoners are sentenced to incarceration. This brings up a crucial question of

¹ Paulus included an extensive review of field studies, their only limitation is that the studies are somewhat outdated. Their findings are included in the current report because their findings apply to current corrections practices.

public safety: if prison crowding causes less prisoners to be sentenced to prison, where are they going? The answer reveals a nervous uncertainty in sentencing.

Uncertainty in Sentencing

Within the shadow of overcrowding, the connection between crimes and punishments is blurring. Sentencing is often inappropriately weighted by incarceration myths. Myths about public opinion lead legislators to push guidelines toward incarceration. Another sentencing problem is the lack of other options for judges. When prisons fill, prisoners are sentenced to probation instead. This bases the connection between crime and punishment on prison population, and relative seriousness of the offense, not absolute guidelines. Such a blurry connection weakens the preventative power of clear consequences to crime. Currently, sometimes lesser offenders are sentenced to prisons, aggravating overcrowding. Other times, more serious offenders are put on probation that is often akin to no punishment at all. No one can say, "If you commit this crime, this will be your punishment." Instead, the message sent by this faulty system is, "If you commit this crime, your punishment might be this, depending on the prison capacity; on the other hand, the judge might just choose probation, or the half-way house; but if it's full, you might go free..." Such ambiguity allows for no psychological prevention or motivation to reform. When sentencing ends up based on prison population, instead of punitive and rehabilitative consequence, the public and the prisoners lose.

The myth of public opinion creates unnecessarily harsh sentencing. As long as legislators believe that the public wants harsher sentencing, and harsher sentencing means prison, more offenders will be sentenced to prison, and serve longer terms. The truth is that most ideas about public opinion, and the severity of punishment to prison are wrong. Public surveys are oversimplified, and frequently reflect uninformed and inaccurate views of public opinion. For example, public opinion surveys often include questions like, "Do you think sentences for armed robbers are too severe, about right, too lenient, or don't know? A different sort of question tends to be asked much less frequently: the issue of whether the state should deal with the next demographic wave of teen criminals by investing in prevention programs or building more prisons." (Greenwood, 1998) When this question was posed to a representative sample of California voters in 1996, more than 70% preferred spending money on

prevention instead of on prisons. (Martin & Glantz, 1997, as quoted by Greenwood, 1998) This illustrates that when surveys are conducted after receiving information about alternatives to incarceration, results are significantly different. (*see table 1*) Research reviews conducted in the United States show that “Most Americans believe in rehabilitation... are willing to spend tax dollars to rehabilitate offenders... [and] would rather see community based punishments imposed than prison sentences.” (Roberts, 1997, p. 250 *see table 2*)

Unfortunately, community based punishments are often not an option for judges. Too often, judges are faced with a debilitating dilemma: if offenders are sentenced to overcrowded prisons, something will be done to make room; however, if offenders are sentenced to overcrowded half-way houses, the offender will probably go free. In an effort to secure public safety and punitive consequence, judges choose prison. (Summarized from phone conversation 01/07/1999 with Chris Mitchell, Research Director, Utah Department of Corrections.)

Recent studies also question the severity of sentencing to prison. According to Crouch, “Theoretically, for prison to have the punitive and deterrent effect the public desires, a fundamental assumption must be met: that offenders generally share the state’s punitiveness in the ranking of criminal sanctions.”(Crouch, 1993, p. 68, as quoted in Petersilia et. al. 1994) Generally, prisoners do not share the state’s “punitiveness” when ranking criminal sanctions. (*see table 3*) Petersilia & Deschenes (1994) found that community-based sanctions were much more than a “slap on the wrist.” On the contrary, in the minds of offenders, they can be quite severe, even when compared to prison. For instance, in the example of an Oregon based intensive supervision probation (ISP), about a third of the offenders chose prison instead of ISP (Petersilia, 1990, as quoted in Petersilia et. al. 1994). ISP programs are among the most effective intermediate sanctions, and offer a potent contrast to current probationary practice. [*A description and discussion of ISP programs is provided in the ‘examples’ section of this report*]

Current probation often serves as a release valve opening when prison capacity reaches its limits. Between 1980 and 1990, the number of adults on probation more than doubled rising from 1.1 million to 2.6 million. Between 1990 and 1995, that population rose to 3 million (BJS, 1996). The results of the increases in sentencing without proportional increases in supervision are staggering.

According to Petersilia and Turner (1993a), “Reduced staffing has made caseloads of 150-200 common, and ‘supervision’ sometimes amounts to no more than probationers mailing a card to the probation officer once a month.” This causes unnecessary risk to the public while offering no rehabilitation or punishment for prisoners. One study reported that “65% of felons on probation in two California counties were rearrested during their sentences, many of them for burglary, assault, and robbery.” (Petersilia et. al. 1985, as cited in Petersilia & Turner, 1993a) Thus, the domino effect of overcrowding in prison shows that ultimately, sentencing to prison produces a greater risk to public safety.

An Expensive Impasse

Part of the problem of prisons is the vicious cycle driving the sentencing process. As prisons push their capacity limits, and overcrowding becomes supercrowding, rehabilitative effects of prison are undermined. Recidivism rises, and as a result, more and more offenders are sent to prison, thus aggravating the problem. Not only does this amplify the side effects of overcrowding, but it is also an extremely expensive impasse.

Greenwood (1998) points out, “Twenty years ago, prison cost represented only 1% or 2% of most state budgets. Now they are in the range of 8% to 10% and for past 5 years represent the fastest-growing budget category.” The recommended corrections (adult and juvenile) budget for Utah in the year 2000 comprises 6.93% of the state budget². Like the trends that Greenwood noted, the 6.93% recommended for 2000 would be 2.12% increase over the amount spent in 1990. (*see figure 2*)

What’s even more startling is where this money is going. In 1990, 62.98% of the Utah corrections budget was allotted to institutions, while only 29.38% was allotted for field operations. Trends suggest that this is getting worse. In the recommended percentage for the year 2000, institutional costs climb to 68.69% of the corrections budget--an increase of 5.71%, while field operation costs drop to only 20.82% -- a drop of 8.56%! (*see figures 3 & 4*) These budget cuts have a

² All Utah Budget Statistics are taken from the Commission on Criminal and Juvenile *Justice Analysis of Corrections Budget as of January 11, 1999*. This analysis was sent via e-mail to the authors on January 14, 1999.

profound impact on offenders and sentencing. According to Chris Mitchell³, Utah Department of Corrections, the number of prison beds has risen by 3,571 since 1977 (not including 800 beds rented from county jails around the state), while the number of prison beds in half-way houses has only increased by about 70 beds. What does this mean for Utah? First of all, it shows that we are increasing the number of offenders sentenced to the most expensive sanction⁴. Secondly, it means that we are simultaneously neglecting less costly and often self-supporting alternative sanctions. Indeed, Utah corrections have reached an expensive impasse. The answer requires simply re-thinking the problem.

Intermediate Sanctions: An Effective Answer

What are Intermediate Sanctions?

Generally speaking, intermediate sanctions are “interventions that are beginning to fill the sentencing gap between prison at one extreme and probation at the other.” (Gowdy, 1993) They offer criminal justice programs alternatives to prison that provide sentencing options in response to the particular circumstances of the offender and the offense. In addition, they provide a vehicle for prosecutors and sentencing boards to engineer specific desired outcomes for each case. (McGarry, 1993,p. 18)

Unlike prison and probation, intermediate sanctions can be grouped together strategically to create programs that are more supervision intensive, more rehabilitative, and more punitive. For example, one offender can be sentenced to house arrest in addition to a fine. Another offender who might pose a greater risk could be sentenced to house arrest and electronic monitoring. A third offender might be sentenced to a day reporting center in coordination with a pharmacological sex-offense treatment. On a broader scale, intermediate sanctions can aid in the construction of a continuum of sentencing to be applied across large populations of offenders. [*An example of one such continuum is provided in the ‘Conclusions and Recommendations’ section*]

³ Information obtained by Chris Mitchell was supplied to the authors via a phone call on 01/07/99, and via e-mail on 01/13/99.

⁴ Currently, each prisoner in Utah costs approximately \$52.00 per day. With an increasing rate of incarceration (*see figure 1*), this means that prison is an extremely expensive sentencing choice.

Intermediate Sanctions can be grouped into two categories: “Front-door” programs, and “Back-door” programs⁵. “Front-door” programs are designed to keep offenders from entering the prison’s front door. Instead, they are diverted into the community in order to participate in the sanction. “Back-door” programs are designed to ease offenders back into the community by requiring adherence to an intermediate sanction in conjunction or instead of regular parole. *[The examples discussed in this report are not specified as “Front-door,” or “Back-door,” because a large number of examples can be adapted to serve either function.]*

Examples of Intermediate Sanctions

Monetary Penalties

It should be noted that there is some ambiguity as to whether monetary penalties alone constitute intermediate sanctions. For the purposes of this paper, intermediate sanctions are defined as “interventions that are beginning to fill the sentencing gap between prison at one extreme and probation at the other.” (Gowdy, 1993) By this definition, and in light of research done by Petersilia & Deschenes (1994), fines can be more punitive than probation. (*see table 3*) It should be noted, however, that not all fines are more severe sanctions than probation – rather, the severity of the sanction depends on the fine, and the probation measured against. In addition, often times fines are used in conjunction with ordinary probation, in which case they may not be included in the above definitions of intermediate sanctions.

Day Fines

Brief Description: “These fines are tailored not only to the gravity of the crime but also to the defendant’s ability to pay, in contrast to fixed-sum fines.” (Gowdy, 1993, p. 2) Day fines are based on the offender’s income for one day. Most programs use self-reports from the offender to assess level of income. The offender is assigned a number of points based on the severity of the crime, and then the points are translated into a fine based on the offender’s daily income.

⁵ The terms “Front-door”, and “Back-door” are borrowed from evaluations of Intensive Probation and Parole (ISP) programs. (Petersilia & Turner, 1993) Although intermediate sanctions by definition cover a broader base of interventions, in many cases the terms “intermediate sanction,” and “ISP” are interchangeable. Discussion of ISP programs as examples of intermediate sanctions refer to the intensive supervision category of intermediate sanctions.

Examples (taken from Turner, 1995):*Maricopa County, Arizona*

- Called “FARE supervision” (Financial Assessment Related to Employability)
- Administered through the probation department
- Targets low-risk and low-need felony offenders (not chronic offenders)

Polk County, Iowa

- Administered through county attorney’s office
- Targets offenders with serious and aggravated misdemeanors

Bridgeport, Connecticut

- Goal is to “make fines more equitable and to increase the use of fines both for offenses currently punished by fines and for offenses not previously fined.”⁴
- Administered by participating court in the demonstration
- Targets offenses ranging from class B felonies to class C misdemeanors
- Cases can be referred from any stage in court processing

Coos, Josephine, Malheur, and Marion Counties, Oregon

- Targets presumptive probation felonies and all misdemeanors.

Public Safety: Day fines obviously allow the offender to pose the greatest risk to public safety unless sentenced to another intermediate sanction in conjunction with the day fine. As illustrated in the above examples, the offenders sentenced to day fines were those that already posed a minimal risk to public safety.

Conclusions: Day fines are an excellent alternative to probation for offenders that pose minimal risk to public safety. They provide an increase in state income as opposed to regular fines (*see table 4*), and are collected in full as frequently as fixed fines.

Unit Fines

Brief Description: Unit fines differ from day fines in that fines are based on one week’s salary instead of one day’s salary. Unit fines were adopted instead of day fines, because day fines were believed to be impractical.

Examples: The only example found was that of unit fines adopted in England (Moxon, 1995). The fines took effect in magistrates’ courts throughout England and Wales in October of 1992, but were

abandoned only seven months later. A brief explanation for the reason for abandonment seems to indicate failure of the system rather than failure of the program.

Fines in Germany (Weigend, 1995)

Brief Description: Germany has captured the attention of many criminal justice programs because of dramatic changes they have made in sentencing, and the results of these changes. One of the results of these changes was a significant reduction in the number of offenders sentenced to imprisonment (in the United States, this would mean both jail and prison). Sentencing reforms began in 1968, when about one quarter of convicted offenders was sentenced to imprisonment. In only two years, that number dropped from 136,000 to 42,000. In percentage, this is a drop in offenders sentenced to imprisonment from 24 percent to 7 percent.

The origin of the sentencing change comes from the legislature. According to section 47, sub. I of the Penal Code: “The court shall impose imprisonment below six months only if special circumstances concerning the offense or the offender’s personality make the imposition of a prison sentence indispensable for reforming the offender or for defending the legal order.”(Weigend, 1995, p. 44)

Other interesting initiatives present in the German fine system include procedure for offenders to pay fines to the state, the victim, or a charitable organization instead of prosecution.

Public Safety: In his article, Weigend (1995, p. 48) asks the question, “Has the reduced emphasis on imprisonment in the German sentencing system led to an avalanche of new crime?” Although on the surface, statistics seem to indicate an increase in crime, a more in depth examination of the crime trends doesn’t allow labeling sentencing reforms as the culprit. In fact, Weigend posits, the reforms may have stabilized an increase in crime that was due to demographic, economic, and social factors.

Conclusions: German sentencing reforms have been the subject of several recent studies because of the revolutionary steps they are taking. As described above, official German sentencing policy has responded to increases in crime rates by *discouraging* incarceration. Although no cause and effect relationships can be established, preliminary results imply that this non-traditional response is making important breakthroughs. Too often, increases in crime rates met by increases in incarceration rates result in cycles of crime that spiral upwards. By steering clear of prison sentences, reforms break this

vicious cycle. However, recommendations for implementation in the United States demands further analysis.

Intensive Supervision Programs (ISPs)

Brief Description: Intensive supervision programs include a wide variety of community based programs that emphasize close monitoring. It should be noted that although “ISP” is often used as a generic term, there are no generic ISPs. Each one must be tailored to fit the targeted offender population according to state resources. The only thing that they all have in common, is that they are more intensive than routine supervision. Most programs call for “some combination of multiple weekly contacts with a supervising officer, unscheduled drug testing, strict enforcement of probation or parole conditions, and requirements to attend treatment, to work, and to do community service. Case loads typically consist of thirty to fifty offenders per officer.” (Petersilia & Turner, 1993a)

Cost: Obviously, cost of any ISP is extremely variable depending on several factors. Many times early successful programs are cited as ISPs in order to advocate cost effectiveness. For example, Georgia’s pioneer project in the early 1980s produced an internal evaluation that claimed some remarkable benefits (Erwin 1986, as cited in Petersilia & Turner, 1993a). The report showed that “participants had extremely low recidivism rates, and most offenders were able to maintain employment, make restitution, and pay a monthly supervision fee.” (Petersilia & Turner, 1993a) The Georgia report maintained that the ISP was entirely self-supporting (due to probationer fees). And, according to David Evans, Georgia’s director of corrections, “The ISP programs basically saved the cost of building at least two new prisons” (Erwin, 1986, as cited in Petersilia & Turner, 1993a) Unfortunately, cost effectiveness of ISPs is not easily generalizable to all states.

Since Georgia implemented its ISP in the early 1980’s, similar adult ISP programs have been instituted in every state. (U.S. General Accounting Office, 1990, as cited in Petersilia & Turner, 1993a) Juvenile justice systems have also followed the ISP trend (Armstrong, 1991, as cited in Petersilia & Turner, 1993a) Results from evaluations in these states are more ambiguous. Cost savings were reported in some states (e.g., Illinois and New Jersey), but not in others (e.g.,

Massachusetts, Wisconsin). The varying forms of ISP and methods of evaluation may account for the ambiguous results. (Petersilia & Turner, 1993a)

In order to analyze cost effectiveness for a particular jurisdiction, some important questions must be answered. (questions below are summarized from Petersilia & Turner, 1993b)

- What offender population does the proposed ISP target?
- How will sentence lengths in the proposed ISP compare to current prison sentences?
- Will ISP programs increase the number of incarcerations due to greater technical violations?

The targeted population is an essential variable in analyzing cost effectiveness. If the majority of offenders targeted by the proposed ISP are currently being sentenced to probation, ISP would be more costly, because they are labor intensive, and therefore call for an increase in staffing. If the majority of targeted offenders would currently be sentenced to prison, ISPs would be more cost effective since the per diem costs of ISPs are much lower than the costs for imprisonment.

Sentence length can also confound research results of cost effectiveness. Even sentencing to prison may be more cost effective if it is for a shorter term than sentences in the proposed ISP.

Finally, it should be noted that in some cases ISP programs resulted in more incarcerations due to violation of stricter technical conditions that define what is an ISP. As explained above, ISP programs are more strict and intense than ordinary probation or parole. Again, if the targeted population is that of offenders normally sentenced to probation or parole, research implies that ISPs would be cost ineffective.

Public Safety: The effect that an ISP program has on public safety is measured best by rates of recidivism. In the results of a nationwide experiment conducted by Petersilia and Turner (1993b), ISP programs were *less* successful in reducing recorded arrests and technical violations. (*see table 5*) This would imply that public safety was threatened more by ISP programs than by sentencing to prison; however, as noted above, if the majority of offenders sentenced to the proposed ISP are currently being sentenced to less intensive probation or parole, ISPs would reduce the threat to public safety.

Conclusions: It is difficult to draw any conclusions or make any recommendations for ISP programs because of the great degree of variance between the existing programs. Nevertheless, research implies guidelines for constructing an ISP to suit the jurisdiction in question. The greatest determining variable seems to be the targeted population. If the offenders targeted for the ISP are routinely sentenced to less intensive probation or parole, the implementation of the ISP would be more costly, but would likely reduce the threat for public safety by closer monitoring of offenders. If, on the other hand, the targeted population is routinely sentenced to prison, ISP implementation may be more cost effective, but may also pose a greater threat to public safety.

House Arrest⁶

Brief Description: House arrest programs utilize the offender's residence and resources to support the offender, while maintaining public safety and punitive consequence through supervision. In most programs the offender is required to remain at the place of residence when not engaged in other approved activities. (e.g., community service, paid job, treatment programs, etc.) Supervision techniques vary from electronic or phone call monitoring, to unscheduled visits. Some systems of monitoring are more intensive, and others less intensive. Many programs utilize a combination of monitoring techniques.

Cost: Cost assessment depends in a large degree on the monitoring system utilized. Generally, even the most expensive combinations of techniques are substantially less costly than prison; however, in evaluating cost effectiveness, targeted population is a critical issue. Like other intermediate sanctions, candidates targeted for house arrest are not always prison bound. When offenders sentenced to house arrest are diverted from regular probation, the cost is often greater because of greater supervision requirements. (*see table 6*)

Example: Florida Community Control Program (FCCP)

(all information and quotes included in the FCCP example are taken from Wagner & Baird 1993 unless otherwise specified)

The FCCP was identified as “an intensive-supervision house arrest program implemented by the Florida Department of Corrections in late 1983.” The goal of the FCCP was to alleviate Florida's crowding problem by diverting offenders from prisons and jails. By many standards, the FCCP succeeded, diverting more than 40,000 offenders between 1983 and 1993. There were no increased costs due to “net widening”⁷ in the Florida example. (*see table 6*) In fact, over half of the offenders sentenced to FCCP were prison bound.

Public Safety: Measured by recidivism, the FCCP example research suggests that the program was effective with offenders who might otherwise have been sentenced to prison. (*see table 7*) However,

⁶ In most cases, house arrest is considered a form of intensive-supervision; therefore, many of the characteristics of ISP programs outlined above apply to house-arrest programs.

⁷ “Net widening” is a common term referring to the problem of creating an alternative sanction that ends up imposing the sanction on offenders who were not prison bound; thus, because of the “net

these results may be confounded due to the presence of technical violations⁸ among the FCCP population. The programs greatest success in ensuring public safety was among drug offenders. As Wagner and Baird (1993) note:

Only 11 percent of the drug offenders sentenced to FCCP were convicted of new offenses, while approximately 27 percent of the offenders sentenced to prison for drug offenses were convicted of new offenses during the 18 month follow-up.

Electronic Monitoring⁹

Brief Description: The use of electronic monitoring (EM) in the United States has risen dramatically in the past decade. The basic premise of EM programs is monitoring individuals in their own residences through the use of modern technologies. Most monitoring systems fall into one of two categories: those that use telephones and those that do not.

The usual method of monitoring through telephones and EM devices is considered to be the most effective. It consists of some sort of transmitter usually attached to the offender's ankle, and a receiver attached to the offender's telephone. Any break in the transmission (caused by leaving the place of residence) alerts the monitoring office.

Non-telephone models employ radio signals, or other means to accomplish the same task: alert the monitoring office when the offender leaves the designated area of residence. This is usually accomplished by an EM officer who drives by the residence and has a receiver, which tells him/her whether or not the offender is in the residence.

In many cases EM is employed along with other sanctions and treatments. Most states using some form of EM contract monitoring services to private entities. The usual amount of time served

widening" effect, overcrowding, and the other problems of prison are not alleviated. In many cases precautions can help alleviate the net widening phenomenon (*see day reporting centers, p. 17*)

⁸ Success of the FCCP was based on the number, or percentage of new offenses committed by the offenders within the 18 months after release from prison, or the 18 months following entry into FCCP. A small percentage of FCCP offenders were removed from the program due to technical violations. Accordingly, it could be argued that these offenders that might have potentially committed new offenses had they not been removed from the FCCP due to technical violations. Conversely, the removal of these offenders also demonstrates effectiveness of the program in removing offenders *before* they commit new offenses.

⁹ Most of the information in the overview of electronic monitoring comes from Enos, Black, Quinn, and Holman, 1992 unless otherwise specified.

on EM is 30 to 90 days; although, trials have shown that EM can be effective for longer periods of time (Renzema & Skelton, 1990, figure 4).

Public Safety: Electronic Monitoring can potentially enhance public safety by closer monitoring of individuals who might otherwise be on regular probation or parole; however, in order to be an effective tool for solving the problem of prisons, EM must be used also as a sanction for prison-bound offenders. (*see footnote 7*) This could have a detrimental effect on public safety depending on sentencing guidelines. Offenders typically sentenced to EM range from DWI's to property crimes and drug offenses. This leaves public safety in considerable question. Obviously, EM sanctions do much more to ensure public safety than monetary penalties, ISP, or house arrest alone; however, recidivism studies are unclear as to the preventative effects of EM.

Cost: In many cases, EM pays for itself. According to Renzema and Skelton (1990, p. 3), half the existing programs charged offenders monthly fees between \$100 and \$300. A quarter charged less than \$100, and the remaining quarter charged more than \$300 (and as high as \$450). Offenders who work can manage these costs (many EM programs require employment as a pre-requisite for EM).

Conclusions: EM is an excellent tool for close monitoring of certain types of offenders. It is also an effective way of increasing monitoring in conjunction with other sanctions like house arrest.

However, it still leaves some of the primary concerns evident whenever offenders are not incarcerated. For example, EM devices can effectively report whether an offender stays within his/her residence, but they cannot monitor activities within the residence (this would be constitutionally questionable besides being technologically difficult). This could create problems for offenders who commit crimes that could continue at the home (like drug offenses). In short, "Computers and transmitters should not replace the human contact needed for proper supervision." (Enos et. al. 1992)

Day Reporting Centers

Day reporting centers started in 1974 in England in attempt to divert the older, persistent offender from prison. In 1986, the first U.S. day reporting center opened in Hampden County, Massachusetts. (Larivee, 1990) Since then, day reporting centers have become an important intermediate sanction across the U.S. Utah is among the states currently testing the day reporting alternative.

Day reporting centers allow the offender to remain at home without compromising the important structure, monitoring, and punitiveness that are intrinsic to prison. Offenders report to a central agency usually daily (hence the name) to review an itinerary with a supervisor and receive additional services including support, education, vocational training, job placement, and treatment (or referral for treatment for offenders in areas such as substance abuse or mental health). (Diggs & Pieper, 1994)

Parent (1990, as cited in Diggs & Pieper, 1994) identifies three separate purposes fulfilled by day reporting centers: 1) enhanced supervision, and decreased liberty of offenders; 2) offender treatment; and 3) reduced crowding of incarceratory facilities. However, in order for these purposes to be best achieved, certain precautions must be taken to avoid net widening. If the affected population is not prison bound, day reporting centers (like other intermediate sanctions) can be ineffective and costly (*see footnote 7*). Larivee (1990) cites three factors contributing to net widening including: ambiguous goals, lack of understanding from professionals, and lack of support from public officials. If these factors can be avoided, or eliminated through careful planning, the program is more likely to achieve it's intended purpose.

In Utah, initial evaluations of the day reporting center (DRC) indicate achievement of intended purposes. Although statistics are not as promising as those cited in evaluations of programs in England and Florida, results look good. According to Byrnes and VanVleet (1998), Utah's DRC had clients with a 44.8% one year recidivism rate, with 55.2% of those remaining completely free of any charges for one year following discharge from the DRC. Without technical violations, recidivism rate for criminal charges was 33.3% with 66.7% remaining free of criminal charges. The evaluation

done by Byrnes and VanVleet (1998) recommended continued funding and expansion for DRC's in Utah.

Intermediate Sanctions as Tools for Treating Sex Offenders

As illustrated in the above examples, intermediate sanctions are adaptable to a large number of offender populations. However, a great deal of caution, planning, and projection should be used before implementing any sanction within any population. The following section will address the issue of intermediate sanctions within the sex offender population specifically because of their wide applicability, and because of the large need for intermediate sanctions within Utah's growing sex offender population.

Because of the traumatic social issues entangled in sexual offenses, treatment for sex offenders is a delicate process. Options are numerous, but any treatments that do not incarcerate offenders must be highly scrutinized because of the danger of recidivism and the potential damages that recidivism can cause. Like other violent offenses, sexual offenses can cause serious physical harm to victims; but in addition, sexual offense is often associated with the more psychological trauma than any other offense. Many victims are scarred for life, and many victims are also at serious risk for becoming offenders. Because of this, any alternative to incarceration for sexual offense must make public safety its first priority. This does not mean that intermediate sanctions are not an option for sex offenders. Although risks are inherent to this population, new techniques can aid significantly in constructing intermediate sanctions for sex offenders while protecting the public.

Assessing Recidivism Risk

Some of the latest techniques reducing the uncertainty of sex offense sentencing include advancements in actuarial assessment as an alternative to clinical assessment. Because of the variance between clinicians and offenders, clinical assessments are unreliable, and poor predictors of recidivism (Dawes, Faust, and Meehl, 1989, as quoted by Quinsey 1998). In contrast, actuarial assessment techniques are making important advances that can aid in accurately predicting recidivism among sex offenders.

For example, in a recent study, Quinsey, Rice, and Harris (1995, as cited in Quinsey, 1998) formed a predictor scale by weighting fourteen variables found significant in the regression analysis conducted among 178 sex offenders. The variables, in descending order of the size of their relationship with the criterion, were

- | | |
|--|--|
| 1. the Psychopathy Checklist—Revised
(Hare 1991, as cited in Quinsey, 1998) | 10. failure on prior conditional release or
supervision |
| 2. elementary school maladjustment | 11. initial phallometric assessment indicating
deviant sexual age or activity preferences |
| 3. not having lived with both parents until
age sixteen | 12. <i>DSM-III</i> criteria for any personality
disorder |
| 4. property offense charges | 13. <i>DSM-III</i> criteria for schizophrenia
(negative) |
| 5. prior criminal charges against persons | 14. alcohol abuse history |
| 6. number of previous sexual offenses | |
| 7. history of sexual offenses only against
female children (negative predictor) | |
| 8. never married or having lived in a
common-law relationship | |
| 9. age at index offense (negative) | |

Another similar actuarial assessment instrument developed by Harris, Rice, and Quinsey (1993, as cited in Quinsey, 1998) used a larger sample of offenders, and twelve predictors. The twelve predictors they listed are all included in the fourteen predictors listed above, barring some, and including the victim injury in index offense (negative), and the female victim in index offense (negative).

But these multi-variable scales aren't the only tools corrections programs can use to assess recidivism risk. Quinsey (1998) lists a number of instruments that are relatively inexpensive, and easy to use. Predictors of general recidivism include the Statistical Information about Recidivism Scale (Nuffield 1982), the Psychopathy Checklist (Hare 1991; Hart, Kropp, and Hare, 1988), the Level of Supervision Inventory (Andrews 1982; Andrews, Kiessling, and Kominos, 1983; Andrews, 1989; Andrews et al. 1986).

Coordinating Treatment Strategies with Intermediate Sanctions

Treatment of sex offenders has been an ongoing problem for justice departments. Because the cost of treating offenders in prison is so high, many states only provide treatment for an extremely small number of incarcerated sex offenders. Intermediate sanctions work well with sex offender treatment because they can be structured to allow for treatment not possible within prison, and still ensure a greater degree of public safety than simple probation. In addition, many intermediate sanctions allow the offender to work thus reducing costs of treatment considerably.

Most treatment programs can be grouped into one of three categories: (Categories and explanations summarized from Quinsey, 1998 including citations)

- *Pharmacological*¹⁰: The goal is to reduce sexual arousability, and frequency of deviant fantasies. Most programs use antiandrogens. (e.g., Bradford, 1990; Berlin & Meinecke, 1981)
- *Psychotherapeutic or Evocative*: Goals include increasing offenders' empathy for victims and increasing offenders' sense of responsibility for their sexual crimes. (e.g., Frisbie & Dondis, 1965)
- *Cognitive-Behavioral*: The goal is to remedy skill deficits, alter cognition related to sexual offense, and alter sexually deviant fantasies, arousals, or preferences. (e.g., Abel, 1986; Abel, Becker, and Skinner, 1986; Griffiths, Quinsey, & Hingsburger, 1989; Marshall et al. 1983; Quinsey et al. 1987)

Many programs utilize several techniques for treatment from different categories. Jurisdictions seeking to implement programs of these types have a wealth of literature and examples to draw from. (*see Appendix A*) These techniques can be effectively coordinated with other intermediate sanctions mentioned above in order to maximize public safety, punitiveness, and rehabilitation.

Implemented properly, intermediate sanctions are a cost-efficient, safe answer to the growing sex-offender population. When intermediate sanctions are used to construct a continuum of supervision, structure, and control, offenders can be identified (using actuarial assessments) for appropriate levels within that continuum and work their way back into society successfully. [*An example of one such continuum is provided in the 'Conclusions and Recommendations' section*] Continuums

of supervision use intermediate sanctions to solve some problems therapists encounter when treating offender in prison. For example, outside of prison offenders are exposed to a barrage triggers and temptations during their treatment; whereas in prison these temptations do not surface. Despite temptations, sanctions appropriate to the offender's risk level do not compromise public safety the way that simple probation does. Because intermediate sanctions maximize treatment (by allowing for temptations), safety (by supervising offenders according to risk), and cost (by allowing offender employment), they are an effective answer to growing sex-offender populations.

Intermediate Sanctions in Juvenile Justice

Most of the examples above not only can be shaped for a specific target population, but in fact *must be shaped* to target populations in order to be most effective. (*see House Arrest on p. 13*) By making target populations as specific as possible, many of the important questions about recidivism, cost, and public safety can be answered before sanctions are imposed. Although there are many important distinctions, the distinction between adult and juvenile offenders is one of the most important distinctions that can be made in targeting specific populations.

Most of the literature on intermediate sanctions targets adult populations. Accordingly, the examples listed above are primarily prototypes for adult systems. This does not mean that intermediate sanctions do not exist, or cannot be applied to the juvenile system.

Although the term "intermediate sanctions" has not traditionally been applied to the juvenile justice system, most of the examples above can be tailored to suit the current juvenile system. Within current systems, community alternatives, broadly defined, are intermediate sanctions. Many community control programs exist within the juvenile system already.

These programs were developed in Utah during the 1970s largely in response to the mandate of the Juvenile Justice and Delinquency Prevention Act passed by the U.S. Congress, which "deinstitutionalized" the nation's juvenile justice system. Deinstitutionalization moved juvenile justice away from large congregate care institutions in favor of community-based alternatives This

¹⁰ Technically, chemical castration could be included in the category of pharmacological treatment; however, this is a more extreme option, and is not specifically mentioned by Quinsey (1998).

move meant less incarceration, lower costs (through privatization), and greater rehabilitation for juveniles.

Examples include:

- Substance Abuse Treatment
- Family Counseling
- Wilderness Programs
- Proctor Placements
- Tracking
- Two-week highly structured residential discipline camp
- Supervision of youth while kept in own home (cousin to house arrest)
- Day Treatment
- Observation and Assessment (Diagnostic Center)
- Work Camps in collaboration with BLM/Park Services
- Work Programs

Although these examples may not share the same punitive value as fines, ISP, house arrest, and electronic monitoring, they offer a far more valuable consequence: rehabilitation. Rehabilitation through community based sanctions may be a new phenomenon in adult justice, but it is not in juvenile justice. Wolfgang, Figlio, and Thursten noted in 1945 that early recognition and intervention with “probable” offenders could impact juvenile crime. Research that followed motivated the Utah Sentencing Commission to create Juvenile Sentencing Guidelines in 1997. These guidelines included “State Supervision,” with the intent to develop intermediate sanctions in the juvenile court and the Division of Youth Corrections.

In the juvenile system therefore, “intermediate sanctions” take on a broader meaning than just an alternative to incarceration. It includes all non-incarcerative programming aimed at preventing delinquency and diverting offenders from the formal youth corrections system.

Summary of Reservations about Intermediate Sanctions

Despite the many studies suggesting clear success in alleviating the problem of prisons through intermediate sanctions, many confounds clutter those findings. For example, because of the lack of true experimental designs (random assignment, control groups, etc.) within evaluations, internal and external validity of such experiments can be questioned. The existence of technical violations within most intermediate sanctions skews recidivism findings. Most examples of

intermediate sanctions are not generalizable to any offender population. (*see ISP evaluation on p. 10*) Another problem with intermediate sanctions is the “net widening” phenomenon. (*see footnote 7*) As noted earlier, prisons are not a fix-all solution to crime; however, intermediate sanctions are also not a fix-all solution; they require extensive planning, evaluation, and fine-tuning in order to bring success. Nevertheless, many do bring success, and offer an effective answer to the problem of prisons.

Conclusions and Recommendations: A Plan for Utah

Utah is in a good position to implement intermediate sanctions. Utah has a sentencing commission already in place and operating, and an intermediate sanctions subcommittee. These organizations allow for effective cooperation between the executive, the legislative, and the judicial branches of government. This is essential to the success of intermediate sanctions in any state. (Castle, 1991) Another Utah advantage is the existence of various research resources to supply crucial initial evaluations of intermediate sanctions after implementation.

The goals for a Utah plan for intermediate sanctions would include implementing custom-built sanctions that allow for:

- Reduction in the number of prisoners sentenced to prison .
- Reduction in caseload size for probation and parole officers.
- Construction of custom built sentences tailored to the needs of the offender, and the risk posed to public safety.
- “Front-door” and “back-door” programs that allow for maximum rehabilitation of offenders within a structured system of sentencing.

These goals can best be met by creating or modifying existing sanctions and sentencing guidelines within a governing framework. A good example of a successful governing framework is

found in the Delaware corrections system. (Information supplied below taken from Castle, 1991)

Delaware's system is organized into a five level continuum of increasingly restrictive sanctions:

- *Level V* is full incarceration with complete institutional control.
- *Level IV* is quasi-incarceration where a person is supervised for 9 to 23 hours per day in programs such as halfway houses, electronically monitored house arrest, and residential drug treatment.
- *Level III* is intensive supervision involving 1 to 8 hours a day of direct supervision, in which criminals are subject to curfew checks, employment checks, and close monitoring for attendance in treatment programs.
- *Level II* is "normal" field supervision with 0 to 1 hour of contact per day.
- *Level I* is the lowest level of supervision.

In the Delaware system, an offender works his way through the continuum according to his offenses, and compliance with the technical conditions of the sanctions he is given. A serious offender would begin at Level V, and work his way down through the other levels until maximum rehabilitation is achieved. Less serious offenders would begin at Level IV, III, II, or I, and similarly work their way out of the system. The system also allows for uncooperative offenders to work their way up through the system, ensuring public safety when no rehabilitation is accomplished.

Currently, Utah ranks among the many states that suffer from the problem of prisons; however, intermediate sanctions, implemented effectively offer an effective answer. By opening up a wider range of sentencing options, overcrowding in prisons can be significantly reduced. Results of reducing crowding can positively affect all parts of the corrections system. The spiraling cycle of recidivism could be broken. Expenses would drop. Sentencing options would give judges and parole boards important resources to engineer rehabilitation and maximize public safety. The connection between crime and punishment could be re-established bringing a new certainty to sentencing.

Parts of the corrections system in Utah may be "stuck in the snow", but they can easily be put back on dry ground. Intermediate sanctions offers "four-wheel drive" for corrections. If implemented properly, they can keep Utah moving in the right direction.

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Appendix A: Literature on Sex Offenders

Appendix A: List of literature on Forms of Sex Offender Treatment

(List taken from Quinsey, 1998, p. 410 & References)

Surveys of North American treatment programs

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**Appendix B: Analysis of Corrections Budget As of
January 11, 1999**

Source: Utah Commission on Criminal and Juvenile Justice
(Included in e-mail to the authors on 1/14/99)

Commission on Criminal and Juvenile Justice
Analysis of Corrections Budget
As of January 11, 1999

Comparison of Corrections Budget to Total General and School Funds:
(Thousands of Dollars)

Appropriation Status	Fiscal Year	General Funds and School Funds	Corrections (Adult & Youth)	Percent of Budget
Actual	1990	1,625,820	78,178	4.81%
Actual	1991	1,744,632	89,820	5.15%
Actual	1992	1,857,133	98,385	5.30%
Actual	1993	1,978,030	106,991	5.41%
Actual	1994	2,121,944	112,886	5.32%
Actual	1995	2,341,095	130,742	5.58%
Actual	1996	2,609,497	154,740	5.93%
Actual	1997	3,014,420	173,320	5.75%
Actual	1998	3,041,650	192,192	6.32%
Authorized	1999	3,237,085	210,867	6.51%
Recommended	2000	3,379,574	234,347	6.93%

Comparison of Adult Field Operations and Institutional Operations Budgets to Total Adult Corrections Budget (General Funds Only):

Appropriation Status	Fiscal Year	Total Adult Corrections Budget	Adult Institutional Operations	Adult Medical Services	Subtotal: Institutional Budget	Percent of Budget	Adult Field Operations Budget	Percent of Budget
Actual	1990	61,173,300	35,695,200	2,834,000	38,529,200	62.98%	17,972,600	29.38%
Actual	1991	71,585,900	43,796,300	3,900,900	47,697,200	66.63%	19,037,100	26.59%
Actual	1992	78,597,100	45,460,100	5,905,300	51,365,400	65.35%	19,982,800	25.42%
Actual	1993	83,498,800	47,870,900	7,291,700	55,162,600	66.06%	20,403,200	24.44%
Actual	1994	89,161,500	49,239,900	10,241,100	59,481,000	66.71%	22,943,500	25.73%
Actual	1995	98,048,900	54,293,200	10,758,800	65,052,000	66.35%	25,633,200	26.14%
¹ Actual	1996	113,979,800	67,659,179	10,978,100	78,637,279	68.99%	27,744,321	24.34%
¹ Actual	1997	124,970,500	75,436,808	12,440,400	87,877,208	70.32%	28,959,392	23.17%
Actual	1998	142,089,900	81,485,800	14,224,400	95,710,200	67.36%	31,503,500	22.17%
Authorized	1999	160,050,200	95,348,700	14,594,000	109,942,700	68.69%	33,320,900	20.82%

¹ The Promontory Pre-Release Center began operations in Fiscal Years 96 and 97 as part of Field Operations. Currently the Pre-Release Center budget is part of Institutional Operations. For historical purposes, Pre-Release budget figures in FY 96 and 97 have been shown in Institutional Operations.

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Table 1

Support for Incarceration before and after Receiving Information about Sentencing Alternatives

(Roberts, 1995, p. 252, Table 5.2)

Crime	<u>Alabama</u>		<u>Delaware</u>	
	Before	After	Before	After
Theft (5th offense)	90%	46%	83%	47%
Armed robbery	78	47	72	47
Shoplifting	74	22	71	19
Burglary	68	19	70	22
Drunk driving	13	2	16	4
Embezzlement	71	30	71	31

Sources [as cited in Roberts, 1997]: Doble and Klein (1989); Doble, Iminerwahr, and Richardson 1991

Table 2

Summary of Principal Findings: Public Opinion and Sentencing

(Roberts, 1995, p.251, Table 5.1)

-
- Public opposition to alternatives to incarceration has been overstated.
 - The public knows little about alternatives.
 - The public's first response to crime is in terms of imprisonment.
 - Informing the public about alternatives reduces support for prison. This is true for a range of crimes including some violent crimes.
 - The American public believes in rehabilitation and favors rehabilitative programs.
 - Sentencing stories in the media usually involve violent crimes and sentences of imprisonment.
 - Many politicians have misread public views of crime and punishment.
 - The public is not more punitive than are judges.
-

Table 3

Inmates Rank Ordering of Criminal Sanctions
(Petersilia & Deschenes, 1994, p. 5, Table 1)

Criminal Sanction	Mean	Standard Deviation	Median Rank Order
Fines			
\$100	1.3	1.1	1
\$1,000	4.5	3.4	3
\$5,000	7.6	3.6	7
Probation			
1 year	4.2	2.0	4
3 years	6.8	2.7	6
5 years	9.8	2.8	10
Intensive Probation			
1 year	7.1	2.2	7
3 years	9.5	2.2	10
5 years	11.4	2.6	11.5
Jail			
3 months	4.6	3.1	3.5
6 months	6.4	2.9	6
1 year	9.6	2.8	10
Prison			
1 year	9.7	3.2	11
3 years	13.0	2.0	14
5 years	14.5	1.5	15

This table illustrates findings from Petersilia & Deschenes work on general punitiveness of certain sanctions. In an effort to discover inmate's views of severity of criminal sanctions, subjects were asked to rank sanctions between one and sixteen (one being the easiest or least punitive sanction, and sixteen being the most difficult. Results show that inmates view several sanctions as being equal to or worse than prison. Note: the mean ranking for five years of regular probation is higher (worse) than one year of prison; three years of intensive supervision is almost as high as one year of prison, and five years of intensive supervision is almost as high as three years of

Table 4

Staten Island (New York) Criminal Court: Comparison of Fine Amounts Levied in Pilot Year (1988-1989), Capped by Statutory Maximums and Uncapped (Gowdy, 1993, p. 3, Exhibit 1)

Pre-day-fines pilot (1987-1988)	Capped				Uncapped				% of total
	Day fines and flat fines		Day fines only		Day fines and flat fines		Day fines only		
n %	n %	n %	n %	n %	n %	n %	n %	% of total	
\$1-24	1 0.3	1 0.3	1 0.4	100.0	1 0.3	1 0.4	10		
\$25	33 8.3	4 1.1	3 1.3	75.0	4 1.1	3 1.3	7		
\$26-49	- -	4 1.1	4 1.7	100.0	4 1.1	4 1.7	10		
\$50	69 17.3	29 8.0	12 5.0	41.4	29 8.0	12 5.0	4		
\$51-74	2 0.5	6 1.6	4 1.7	66.7	6 1.6	4 1.7	6		
\$75	34 8.5	15 4.1	10 4.2	66.7	15 4.1	10 4.2	6		
\$76-99	- -	9 2.5	8 3.3	88.9	9 2.5	8 3.3	8		
\$100	78 19.5	38 10.4	22 9.2	57.9	38 10.4	22 9.2	5		
\$101-149	1 0.3	15 4.1	14 5.8	93.3	15 4.1	14 5.8	9		
\$150	14 3.5	18 4.9	11 4.6	61.1	18 4.9	11 4.6	6		
\$151-199	3 0.8	11 3.0	10 4.2	90.9	11 3.0	10 4.2	9		
\$200	22 5.5	18 4.9	11 4.6	61.1	18 4.9	11 4.6	6		
\$201-249	8 2.0	9 2.5	6 2.5	66.7	9 2.5	6 2.5	6		
\$250	79 19.8	124 34.0	84 35.0	67.7	56 15.4	16 6.7	2		
\$251-499	8 2.0	12 3.3	8 3.3	66.7	37 10.2	33 13.8	8		
\$500	22 5.5	22 6.0	12 5.0	54.5	17 4.7	7 2.9	4		
\$501-999	4 1.0	7 1.9	6 2.5	85.7	37 10.2	36 15.0	9		
\$19000	21 5.3	22 6.0	14 5.8	63.6	16 4.4	8 3.3	5		
\$1,001+	- -	- -	- 0.0	-	24 6.6	24 10.0	10		
Total	399 100.0	364 100.0	240 100.0	65.9	364 100.0	240 100.0	6		
Total fines ordered	\$82,060.55	\$93,856.00	\$61,994.00		\$137,660.00	\$105,798.00			
Average	\$205.66	\$257.85	\$258.31		\$378.19	\$440.83			

*This percentage was calculated, for each fine amount, by dividing the number of day fines of that amount by the total number of fines of that amount to determine what percentage were day fines.

Source[as cited by Gowdy]: *The Staten Island -Day-Fine Project (NIJ Research in Brief), 1993*

This table compares the amounts of day fines and flat fines in an effort to illustrate the value of using day fines as opposed to flat fines. The table implies that day fines generate more revenue, and yet because they are suited to the individual offender's income, they may be more punitive for higher income offenders without being unethically burdensome for lower income offenders.

Table 5Offender Recidivism During 1-Year Follow-up
(Petersilia & Turner, 1993b, p. 6, Exhibit 3)

	Percentage of Offenders With Any Arrest		Percentage of Offenders With Technical Violations		Percentage of Offenders Returned to Prison		
	ISP	Controls	ISP	Controls	ISP	Controls	
Contra Costa County, California	29	27	64	41	2	4	* Indicates that ISP and control are significantly different, $p < .05$. a Weighted average of ISP in all sites. b Weighted average of routine probation in Contra Costa, Los Angeles, Seattle; routine probation/parole in Santa Fe, Des Moines, Winchester; routine parole in Dallas and Houston
Los Angeles County, California	32	30	61	57	26	22	
Seattle, Washington	46	36	73	48*	6	5	
Ventura County, California	32	53*	70	73	23	28	
Atlanta, Georgia	12	04	65	46	23	4	<i>This table compares Intensive Supervision recidivism with that of the control group. Results indicate that ISP may not reduce recidivism; however, these results only indicate recorded recidivism, and therefore may measure the ISP's impact on the criminal justice system more accurately than the individual's criminality. (Petersilia & Turner, 1993b)</i>
Macon, Georgia	42	38	100	96	8	21	
Waycross, Georgia	12	15	38	31	4	0	
Santa Fe, New Mexico	48	28	69	62	14	17	
Des Moines, Iowa	24	29	59	55	39	23	
Winchester, Virginia	25	12	64	36*	14	8	
Dallas, Texas	39	30	20	13	28	17	
Houston, Texas	44	40	81	33*	35	20*	
Marion County, Oregon	33	50	92	58	50	25	
Milwaukee, Wisconsin	58	03*	92	17*	35	3*	
AVERAGE	37 a	33 b	65 a	38 b	24	15	

Table 6

Estimated Cost Impact of FCCP Adjusted for Net Widening
(Wagner & Baird, 1993, p. 5, Table 4)

Diverted From	Number of Cases Diverted	Amount FCCP Cost Is Greater or Less Than Case Cost	Total Net Cost (minus figure equals savings)
Regular Probation	14	+ \$2,881	+ \$ 40,334
Jail or Probation	32	- 552	- 17,664
Prison	54	- 59506	- 2979324
Total	100		-274,654

These tables compare the Florida Community Control Program with traditional sentences. Because the program diverted more prisoners from prison and jail or probation, net widening did not impair savings. Although the program diverted fourteen cases from regular probation, the total savings was still \$271,654 indicating that the program saved a significant amount out of only one hundred cases. Below, the FCCP match group had a slightly lower recidivism rate, but these findings may be skewed by the presence of technical violations.

Table 7

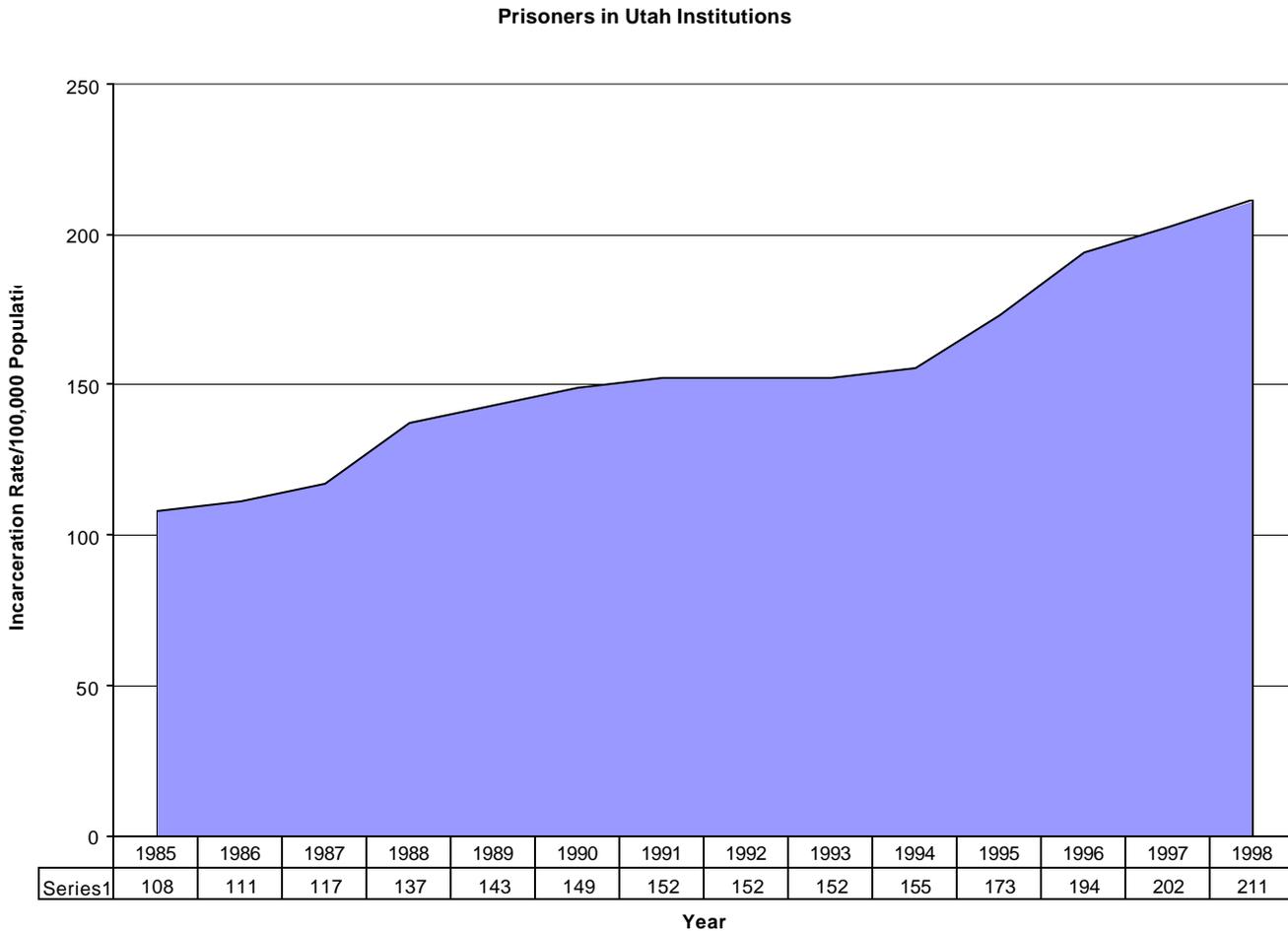
Prison and FCCP Match Group Comparison: Recidivism at 18 Months
(Wagner & Baird, 1993, p.4, Table 3)

Recidivism	Prison Match		FCCP Match	
None	477	75.7%	445	70.6
Finding of Technical Violation*	N/A	N/A	61	9.7
Conviction for New Offense	153	24.3	124	19.7
Total	630	100.0%	630	100.0%

*Since offenders discharged from prison in Florida do not receive parole supervision no technical violations are possible.

Figure 1**Number of Prisoners in Utah Institutions**

(Created using data from Chris Mitchell, e-mail to authors 01/06/99)



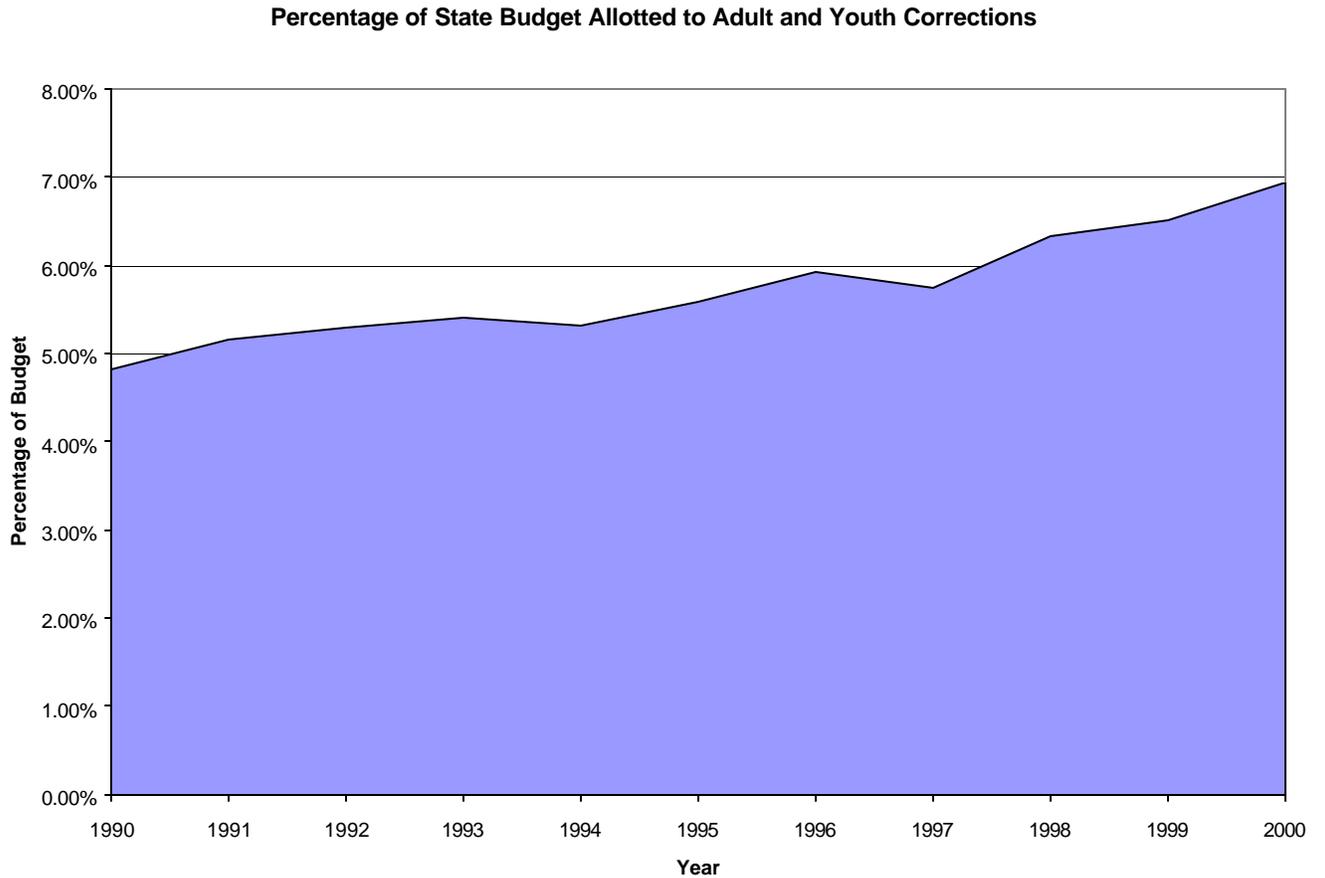
Despite the decreasing rate of violent crime (compared to peak levels in late 1980s and early 1990s) incarceration rates in the United States continue to increase. According to the Bureau of Justice Statistics (BJS), the number of prisoners in state and federal facilities increased 5% in 1996, while the rate of reported violent crime dropped by 8% nationwide (BJS 1997, as quoted in Greenwood 1998). [From the introduction]

Utah is not immune to the rising rates of incarceration. As more offenders are sentenced to prison, the state requires more prison beds, and thus larger more expensive prisons, or more crowded prisons. Intermediate sanctions provide a cost-effective solution.

Figure 2

Percentage of State Budget Allotted to Adult and Youth Corrections

(Created from data in the Analysis of Corrections Budget, e-mail to the authors on 1/14/99)



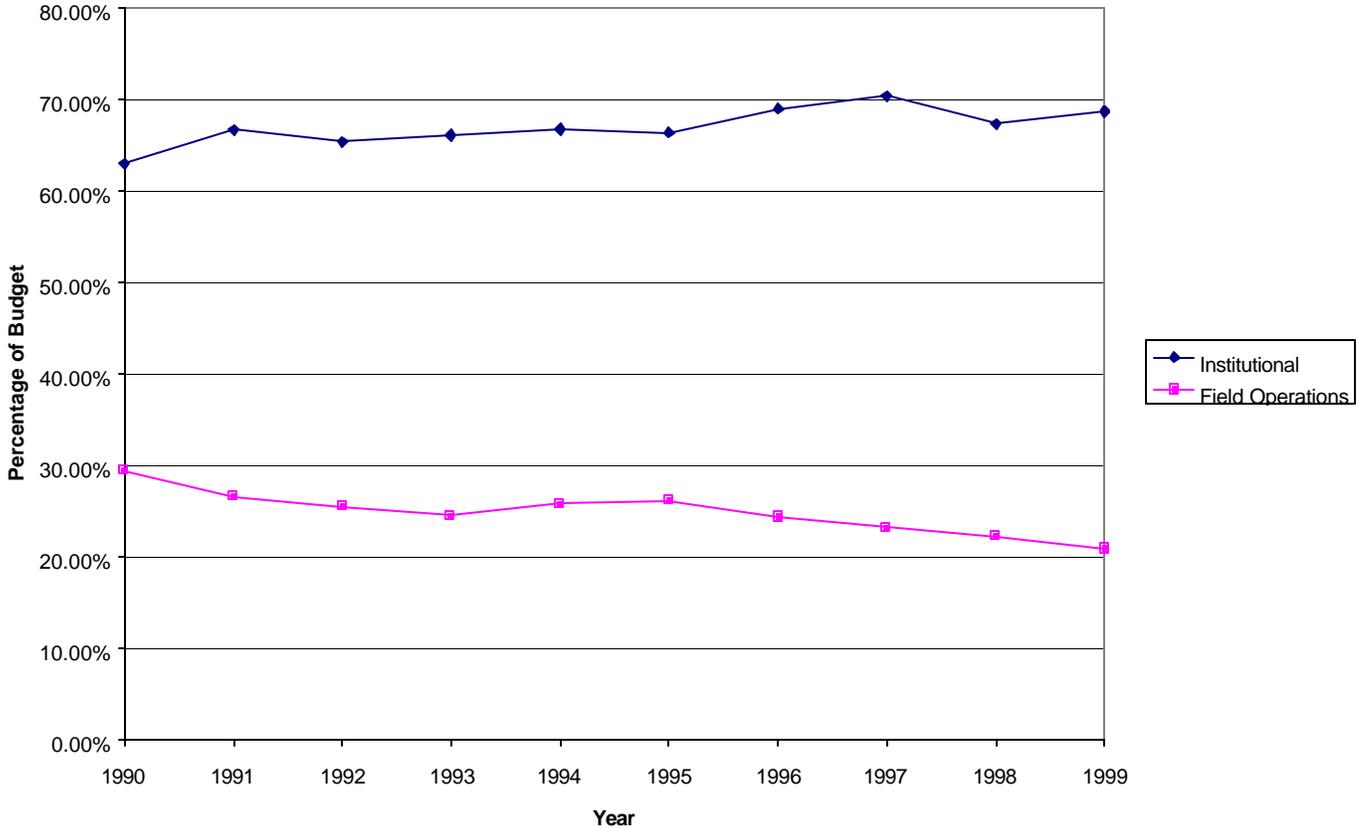
Along with the rising number of prisoners in Utah institutions, the cost of maintaining the prisons also rises. Consequently, adult and youth corrections consume a larger part of the state budget each year. If trends continue, Utah will have to sacrifice money from other important state agencies in order to make room for the rising demands of criminal justice.

Figure 3

Percent of Corrections Budget Allotted to Institutions compared to Field Operations

(Created from data in the Analysis of Corrections Budget, e-mail to the authors on 1/14/99)

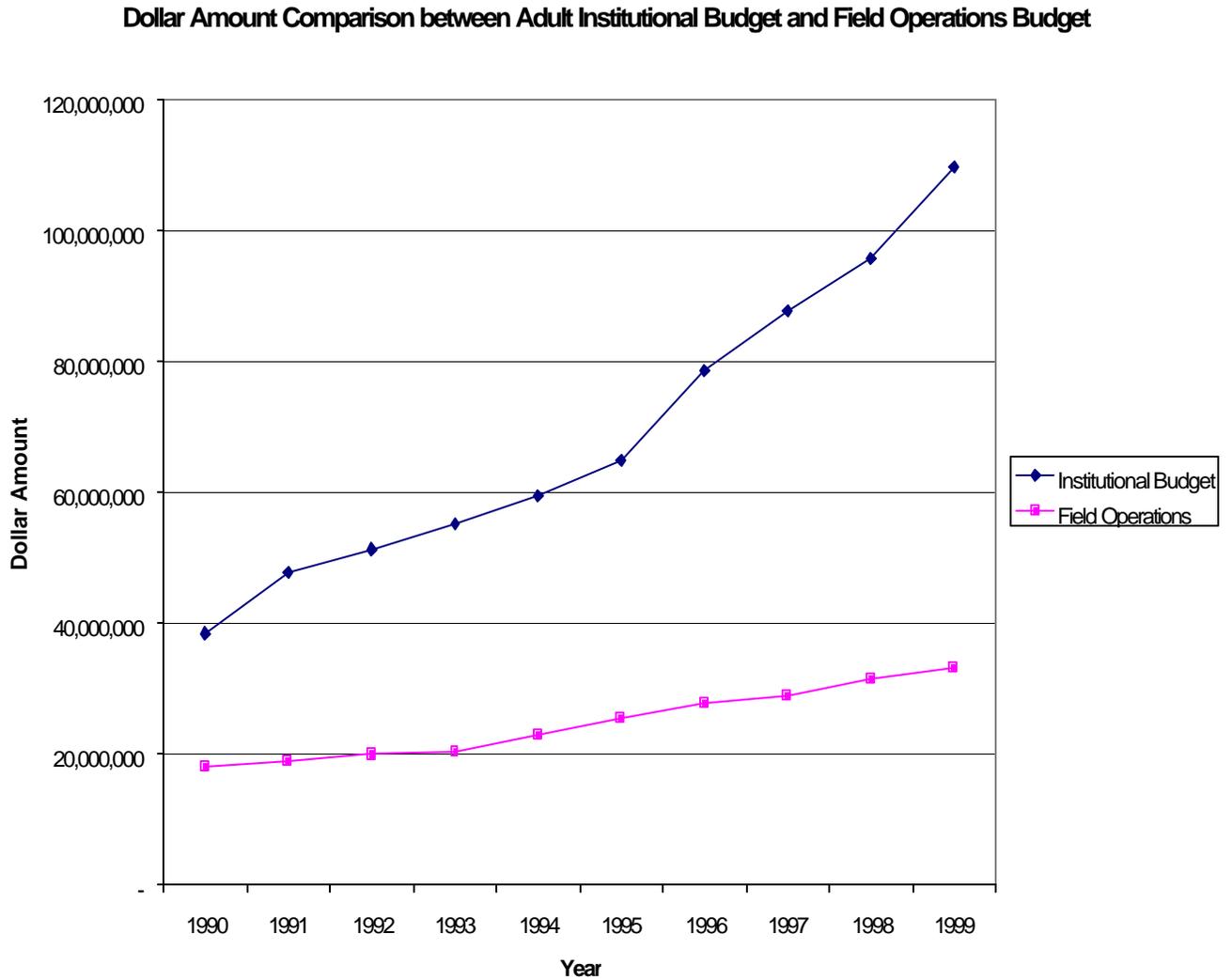
Percentage Comparison between Adult Institutional Budget and Field Operations Budget



Not only has the adult and youth corrections as a whole demanded a greater portion of the state budget, but also, the amount used for prisons and jails far exceeds the amount allotted for field operations like half-way houses. In fact, the amount allotted for field operations has in fact decreased each year since 1995, and has decreased almost 10% since 1990.

Figure 4

Dollar Amount of Corrections Budget Allotted to Institutions compared to Field Operations
 (Created from data in the Analysis of Corrections Budget, e-mail to the authors on 1/14/99)



A closer look at the actual amounts budgeted for institutions versus field operations reveals an even more startling discrepancy. The amount given to institutions has risen by over \$70,000,000 since 1990, while the field operations portion has risen by less than \$16,000,000.